IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15501 of 2004

Between:

B. Adilakshmi, W/o. Kanuparthi Subbarao
Nandanavanam Grampanchayat,

R/o. Nandanavanam, Jarugumalli Mandal,

Prakasam District.

..... PETITIONER

AND

1. The District Panchaayat Officer,
   Ongole, Prakasham District.
2. The Divisional Panchayat Officer,
   Kandukur, Prakasham District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction, more particularly are in the nature of Writ of Mandamus, declaring the action of the impugned notice dated 29-6-2004 vide Roc.No.1330/2004 (Pts) A1 issued by the 1st Respondent as illegal, arbitrary, without power and also in violation of principles of natural justice and consequently set aside the same, and to grant to such other relief or reliefs as this Hon'ble Court deems fit.

Counsel for the Petitioner: SMT.KAVITHA GOTTIPATI

Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following:

ORDER:

By the impugned notice, ROC No.1330/2004(Pts)A1 dt.29-6-2004, the petitioner was called upon to show cause as to why disciplinary action shall not be taken for the irregularities committed by him, as shown in the Annexure, within 15 days from the date of receipt of the notice. It is further informed that if she fails to submit her explanation within the stipulated time, it would be presumed that she has no explanation to offer and further action would be taken, basing on the material available on record. Pending final orders, the petitioner was prohibited from drawl of the General Funds/S.G.R.Y/E.F.C of Nandanavanam Grampanchayat of Jarugumalli Mandal and the Extension Officer (PR&RD), Mandal Parishad, Jarugumalli was authorized to operate on the General/S.G.R.Y./E.F.C funds of Nandanavanam Grampanchayat of Jarugumalli Mandal until further orders.

Learned counsel for the petitioner submits that under Rule 42(1) of the Rules issued in G.O.Ms.No.30 Panchayat Raj & Rural Development & Relief Department, dated 20.01.1995, for the reasons to be recorded in writing, the District Panchayat Officer may prohibit the executive authority from drawing money from Gram Panchayat for the period, but no such order shall be passed unless opportunity of making representation has been given to the executive authority. She further contends that the executive authority is replaced by Panchayat Secretary and the question of issuing the impugned show cause notice prohibiting the petitioner from drawl of the

funds does not arise. She also contends that the petitioner is entitled to a notice before prohibiting her from drawing money. Rule 40 of the Rules, as amended by G.O.Ms.No.137, P.R.R.D. dated 22.03.1996, postulates that all cheques against the Gram Panchayat funds shall be signed by the Sarpanch of the said Gram Panchayat and the drawing of money under this Rule by the executive authority shall be subject to the control of, and the conditions laid down by the District Panchayat Officer concerned under Rule 41. Since the order is passed under Rule 41(1) of the Rules, pending final orders, the same does not suffer from any irregularity.

In view of the same, the petitioner is directed to submit her explanation to the impugned show cause notice and only after passing the final order, she can avail the remedies available to her in accordance with law.

The writ petition is accordingly disposed of. No order as to costs.

A.GOPAL REDDY, J

Dated: 31-8-2004

Lsk/kmr

To

1. The District Panchaayat Officer,
   Ongole, Prakasham District.
2. The Divisional Panchayat Officer,
   Kandukur, Prakasham District.

3. Two C.Cs. to the Government Pleader for Panchayat Raj and

Rural Development, High Court Buildings, Hyderabad, (OUT)

4. Two C.D. copies.